

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ELVIS PATRICK HENRY,

Defendant.

8:05CR144

ORDER

Defendant Elvis Patrick Henry appeared before the court on Thursday, October 18, 2006 on a Petition for Warrant or Summons for Offender Under Supervision [81]. The defendant was represented by Assistant Federal Public Defender David M. O'Neill and the United States was represented by Assistant U.S. Attorney Russell X. Mayer (for Michael P. Norris). Through his counsel, the defendant waived his right to a probable cause hearing on the Report pursuant to Fed. R. Crim. P. 32.1(a)(1). The government moved for detention. Through counsel, the defendant declined to present any evidence on the issue of detention and otherwise waived a detention hearing. Through counsel, the defendant argued for release. Since it is the defendant's burden under 18 U.S.C. § 3143 to establish by clear and convincing evidence that he is neither a flight risk nor a danger to the community, the court finds the defendant has failed to carry his burden and that he should be detained pending a dispositional hearing before Chief Judge Bataillon.

I find that the Report alleges probable cause and that the defendant should be held to answer for a final dispositional hearing before Judge Bataillon.

IT IS ORDERED:

1. A final dispositional hearing will be held before Judge Joseph F. Bataillon in Courtroom No.3, Third Floor, Roman L. Hruska U.S. Courthouse, 111 South 18th Plaza, Omaha, Nebraska, on **November 9, 2006 at 10:30 a.m.** Defendant must be present in person.

2. The defendant, Elvis Patrick Henry, is committed to the custody of the Attorney General or his designated representative for confinement in a correctional facility;

3. The defendant shall be afforded a reasonable opportunity for private consultation with defense counsel; and

4. Upon order of a United States court or upon request of an attorney for the government, the person in charge of the corrections facility shall deliver defendant to the United States Marshal for the purpose of an appearance in connection with a court proceeding.

DATED this 23rd day of October, 2006.

BY THE COURT:

s/ F. A. Gossett
United States Magistrate Judge